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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,159	09/29/2003	Jianzhu Chen	0492611-0506 (MIT 9926)	1899
24280 7590 07/30/2008 CHOATE, HALL & STEWART LLP TWO INTERNATIONAL PLACE BOSTON, MA 02110			EXAMINER MCGARRY, SEAN	
			ART UNIT 1635	PAPER NUMBER
			NOTIFICATION DATE 07/30/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@choate.com

### **Notice of Non-Responsive Reply**

The reply filed on 1/07/08 is not fully responsive to the prior Office Action and the Restriction Requirement of 10/10/06 because of the following omission(s) or matter(s): Applicant continues to provide a listing of only those claims that "recite" the elected invention. The examiner provided guidance in the last communication of 12/31/07 which indicated that applicant is required to provide a listing of all claims that "embrace" the elected invention. Applicant should review that communication and consider the following. For example, applicant should look at claim 1. If claim 1 embraces the elected invention claim 1 should be listed. If claim 2 embraces the limitations of the elected invention then it should be included in the listing. If any claim is found to not embrace the elected invention then it should not be in the listing. For example does a claim limiting the invention to an "influenza A" embrace the claimed invention? If yes, applicant should list claim 20. Does a claim limited to "influenza B" embrace the elected invention? If yes, then this claim [21] would be included in the listing. If the answer is no the preceding questions applicant would not list the subject claim in the listing. It is noted that applicant has requested that the examiner not send another notice of this type, but the number of claims and limitations involved in the above requirement makes the need for a written record and listing for a complete file history. If applicant still has questions on what is required to provide a complete response, applicant may call the examiner since the examiner too would like this application to move forward in prosecution. See 37 CFR 1.111.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean R. McGarry whose telephone number is (571) 272-0761. The examiner can normally be reached on M-Th (6:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Douglas Schultz can be reached on (571) 272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sean R McGarry  
Primary Examiner  
Art Unit 1635

/Sean R McGarry/  
Primary Examiner, Art Unit 1635